(30)

HIGH COURT OF CHHATTISGARH AT BILASPUR

DIVISION BENCH

CORAM: **HON'BLE SHRI JAGDISH BHALLA, Ag.CJ. &**
HON'BLE SHRI DILIP RAOSAHEB DESHMUKH, J.

M.A.(C) No. 656 of 2007

APPELLANTS CLAIMANTS

1. Ku. Priyanka @ Lakeshwari, D/o. Gajendra Kumar Sahu, aged about : 11 years, (Minor) through : Next friend Her Guardian Grand Father : Ramswaroop S/o. Shyam Singh Sahu,

2. Smt. Premin Bai, W/o. Ramswaroop Sahu, aged about : 55 years.

3. Ramswaroop, S/o. Shyam Singh Sahu, aged about : 60 years

All are R/o. Village : Badeparda, Post Office : Navagaon, Through : Bori, Tahsil : Dhamdha Distt. : Durg (C.G.)

VERSUS

RESPONDENTS :

1. Mohammad Aslam Rathor, S/o. Abdul Sattar, aged about : 36 years, R/o. Takiyapara Durg, Tahsil & Distt. : Durg (C.G.)
(Owner of the offending vehicle) No. M.H. 31, W. 6751.

2. Kamluddin, S/o Ajimuddin, aged about : 39 years, R/o. Luchkipara Durg, Tahsil & Distt. Durg (C.G.)
(Driver of the offending Vehicle No. M.H. 31, W. 6751.)

3. National Insurance Co. Ltd. Branch : Durg, Gil Complex, Gurudrawa Road Durg (C.G.)
(Insurer of the offending Vehicle. No. M.H. 31, W. 6751.)

Appeal under Section 173 of Motor Vehicle Act

Present : Shri Pushpendra Kumar Patel, counsel for the appellants.

ORAL ORDER
(Passed on 26th June, 2007)

The following oral order of the Court was passed by

Dilip Raosaheb Deshmukh, J.

(31)

Heard.

On 12-05-2005 four persons i.e. Gajendra Kumar, Smt. Yashoda Bai @ Rani, Bhupendra Kumar and Manoj Kumar going on a motorcycle met with accidental death. The Tribunal awarded total compensation of Rs.8,33,752/-.

Learned counsel for the appellants at the very outset submitted that he would not assail the compensation awarded by the Tribunal relating to the accidental death of Smt. Yashoda Bai @ Rani, Bhupendra Kumar and Manoj Kumar, but would confine his argument only to the inadequacy of compensation of Rs.2,38,952/- awarded by the Tribunal regarding the accidental death of Gajendra Kumar on the sole ground that the learned Tribunal fell in error in assessing the loss of dependency on the basis of net salary drawn by Gajendra Kumar who was a gardener in the Steel Club, Bhilai.

Upon perusal of the impugned award we find that although the deceased was drawing a net salary of Rs.1,456.90/- on the date of accident yet the MACT has, after taking into consideration some deductions which would have stopped after two months assessed the loss of dependency by taking the monthly net salary at Rs.1756.90/-. In our considered opinion, the compensation awarded by the Tribunal is just and reasonable compensation. There is no merit in this appeal which is dismissed at the stage of admission itself.

Sd/-
Ag. Chief Justice

Sd/-
Dilip Raosaheb Deshmukh
Judge

subbu